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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,887	02/07/2007	Frank Sondermann	156.005US0 1	8313
27073 7590 11/02/2009 LEFFERT JAY & POLGLAZE, P.A. P.O. BOX 581009 MINNEAPOLIS, MN 55458-1009				
EXAMINER				
SMITH, MATTHEW J				
ART UNIT		PAPER NUMBER		
3635				
NOTIFICATION DATE		DELIVERY MODE		
11/02/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@ljp-iplaw.com

Office Action Summary

Application No.

10/576,887

Applicant(s)

SONDERMANN, FRANK

Examiner

Matthew J. Smith

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-49 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 30-44 and 47-49 is/are rejected.
- 7) ☒ Claim(s) 45 and 46 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the breakage seam (claim 49) must be shown or the feature canceled from the claims. No new matter should be entered.

The drawings are objected to under 37 CFR 1.84(h)(5) because Figures 4a, 4b, and 10a show modified forms of construction in the same view. The designation Detail I, Detail II, and the three drawings for Figure 10a are not acceptable.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 25", Fig. 10a.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "18" [0046] has been used to designate both base surface and counter surface.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 30-41, 43, 44, 47, and 48 are rejected under 35 U.S.C. 102(a) as being anticipated by Daly et al. (20020095895).

Daly et al. disclose a floor profile comprising: a base profile 28; a covering profile 12 with a sideways-projecting covering wing; a web 18 connecting the base profile and the covering profile; an articulation 16 having an articular cavity 32 on the base profile; the articulation element formed on the lower edge of the pivoting web; the articulation element 16 partially cylindrical; the articular cavity 32 partially hollow-cylindrical; the articulation element partially spherical; the articular cavity partially hollow- spherical and the connection between the articular cavity and the articulation element releasable, Fig. 1; the base profile having two upwardly extending side pieces 30 between which the

articular cavity is formed; the base surface formed on the articulation element; the counter surface formed on the articular cavity; the base surfaces in the articular cavity formed like a pitched roof and the counter surfaces on the articulation element formed correspondingly; stop surfaces, tops of pins 30, formed to the side of each of the side pieces; counter surfaces, bottom of cylindrical surface 17, formed on the web; the stop surfaces formed respectively on the longitudinal edges of the side pieces; counter surfaces formed on an allocated outer surface of the web; the web having two parallel webs forming a channel; the covering profile having two webs which each encompass the webs from the outside; the covering profile having a web inserted into the channel; the webs of the covering profile and the side pieces of the central profile fit closely together; a web and the covering profile having two parallel webs a distance apart from one another which encompass the web from the outside; the channel between the two side pieces of the web formed, at least in sections, as a threaded channel for a screw 24; a hole 26 in the covering profile; the webs having snap-on means for mutual snap-fastening; the clearance of the articular cavity in the base profile width greater than the inner distance between the two webs; the base profile substantially L-shaped and has a substantially horizontal side piece and a substantially vertical side piece; the covering profile with respect to the base profile has a side pivot region of ± 20 degrees in relation to a full circle with 360 degrees; a joint bridging profile; and one of the web side walls allocated to one another and the webs of the covering profile forming a tilting projection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grosjean et al. (EP0588734).

Daly et al. disclose the invention substantially as claimed but not on the lower side of the covering profile above the side pieces of the central profile is a groove-shaped indentation extending in the longitudinal direction, or at least an aperture/recess is formed.

Grosjean et al. show a floor profile arrangement having a groove-shaped indentation 18 extending in the longitudinal direction on the lower side of the covering profile 14 above the side pieces 15, 16 of the central profile.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the Daly et al. strip with a groove-shaped indentation, as shown by Grosjean et al., since it is well known.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kammerer (2273877).

Daly et al. disclose the invention substantially as claimed but not on the base profile two articulation channels formed on different height levels for the articular cavity,

a desired breakage seam formed between the two articulation channels, or the upper articulation channel on a base.

Kammerer presents, in Fig.2, right hand side, a base profile 90 having two articulation channels, 92 and to the right of 94, formed on different height levels for the articular cavity; a breakage seam, at the base web junction, between the two articulation channels; and the upper articulation channel on a base.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the Daly et al. profile with two channels, a breakage seam, and the upper channel on the base, as presented by Kammerer, in order to provide more configurations.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kelly (3696461), Wilbs et al. (5657598) Kornfalt (6745534), and Fiedler (7409802) describe covering profiles.

Allowable Subject Matter

Claims 45 and 46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Smith whose telephone number is (571) 272-7034. The examiner can normally be reached on T-Th, 8-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

/M. J. S./
Examiner, Art Unit 3635
25 August 2009